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**6. Easements (§ 31\*)—Abuse of Right of Way Does Not Extinguish It.**—That the owners of right of way over private premises have abused the easement, by driving out of the limits of the way and trespassing on the servient land, does not extinguish the easement the injured owner of the servient land having an adequate remedy by action for damages or suit for injunction.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 373.]

Appeal from Circuit Court, Washington County.

Suit by Mrs. Martha Clark and another against Johnson Reynolds. From a decree for defendants, complainants appeal. Decree reversed, and decree entered for complainants.

*L. P. Summers*, of Abingdon, for appellants.

*Jno. J. Stuart*, of Abingdon, for appellee.

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HAYNES et al. v. PETERSON.

Sept. 17, 1919.

[100 S. E. 471.]

**1. Deeds (§ 196 (2)\*—Burden on Plaintiff to Prove Fraud as Basis for Cancellation.**—In suits for cancellation of deeds on the ground of fraud, the burden of proof rests on plaintiff to prove the allegations on which he seeks relief by satisfactory proof.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 502.]

**2. Convicts (§§ 3, 4\*)—Power to Contract or Convey Not Prohibited by Statute.**—There is no statute in Virginia depriving a convict of the power to make contracts or conveyances of his real estate; corruption of blood and forfeiture of estate on conviction of felony as at common law having been abolished by Code 1904, § 3883.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 357; 2 Va.-W. Va. Enc. Dig. 328.]

**3. Convicts (§ 3\*)—Right to Take and Dispose of Property Not Affected by Attainder of Felony.**—In Virginia, the right of a person to take, hold, and dispose of his property, real and personal, is not affected by his attainder of felony.

**4. Convicts (§ 3\*)—Appointment of Committee, Where Convict Has Disposed of Estate, Unnecessary.**—The procedure of Code 1904, §§ 4110-4173c, authorizing the appointment of a committee for the estate of a convict to administer his estate and to sue and be sued in respect to it, does not apply where the convict has exercised the right to dedicate his property to the payment of debts and support of his family before the appointment of a committee.

[Ed. Note.—For other cases, see 16 Va.-W. Va. Enc. Dig. 1072.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Appeal from Circuit Court, Wise County.

Suit by A. T. Peterson against J. K. Haynes and others. From decree for plaintiff, defendants appeal. Reversed, and bill dismissed.

*Coleman & Carter, W. S. Cox, and S. H. Bond*, all of Gate City, for appellants.

*Bond & Bruce*, of Wise, for appellee.

ADAMS EXPRESS CO. *v.* ALLEN.

Sept. 17, 1919.

[100 S. E. 473.]

**1. Carriers (§ 105 (2)\*—Chargeable with Notice of Intended Immediate Use of Hog Cholera Serum.**—Express company, by which the department of agriculture of Virginia made a shipment of hog cholera serum, informed that it was such serum, and of the importance of prompt dispatch, while the words “please rush” appeared on the face of the express receipt, held chargeable with notice that the serum was intended by the consignee for preventive treatment of hogs.

**2. Damages (§ 5\*—Recovered by Consignee from Carrier for Delay in Shipment General and Not Special.**—Damages recovered by the consignee of hog cholera serum from the express company which carried the shipment, and which was chargeable with knowledge of its intended use as a preventive, being for the loss of hogs through disease which might have been prevented but for delay in delivery, held “general” and not “special” damages, having been such as arose naturally from the breach of the contract itself and such as may reasonably be supposed to have been in the contemplation of both parties.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 172.]

**3. Carriers (§ 153\*—Provisions in Express Receipt Not Limitation of Liability by Declaration of Value.**—Provisions in the face and on the back of an express receipt for hog cholera serum shipped held not to have limited the liability of the express company to the sum of \$50, there having been no value declared by shipper, but merely the C. O. D. charge stated.

**4. Carriers (§ 150\*—Limitation of Liability for Negligence Is Void.**—Under Code 1904, § 1294c, subsec. 24, an attempted limitation of the liability of a common carrier is void where the injury or loss is occasioned by the negligence or misconduct of the carrier.

[Ed. Note.—For other cases, see 15 Va.-W. Va. Enc. Dig. 156.]

**5. Appeal and Error (§§ 381 (2), 757 (3)\*—Assignment Complaining of Admission of Evidence Not Pointed Out Not Considered.**—Where neither in the petition for writ of error nor in the brief is the

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.